

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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INNOVATION VENTURES, LLC, LIVING  
ESSENTIALS, LLC, and INTERNATIONAL IP  
HOLDINGS, LLC

Plaintiffs,

-against-

ULTIMATE ONE DISTRIBUTING CORP., ET  
AL.

Defendants.

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: 12 Civ. 5354 (KAM)(RLM)  
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: **STIPULATION AND ORDER**  
: **RE: MIDWEST PARTIES’**  
: **DISMISSAL WITH PREJUDICE OF**  
: **FRAUD CLAIMS AND WITHOUT**  
: **PREJUDICE OF INDEMNITY AND**  
: **CONTRIBUTION CLAIMS AGAINST**  
: **THE BAJA PARTIES**  
:

Defendants and cross-claimants Midwest Wholesale Distributors, Inc., Walid Jamil a/k/a Wally Jamil, Justin Shayota, and Raid Jamil a/k/a Brian Jamil; (collectively referred to herein as the “Midwest Parties”) and Defendants and Cross-defendants Tradeway International, Inc. d/b/a Baja Exporting, Joseph Shayota, and Adriana Shayota (collectively, the “Baja Parties”) hereby stipulate and agree as follows:

WHEREAS, on October 25, 2012, Plaintiffs filed this action.

WHEREAS, on November 15, 2012, Plaintiffs added the Baja Parties and the Midwest Parties, among others, as defendants to this action.

WHEREAS, on April 5, 2013, the Midwest Parties filed an answer and first amended cross-claim against the Baja Parties (and other parties who are not a party to this stipulation) for: (1) fraudulent misrepresentation, (2) innocent misrepresentation, (3) silent fraud, (4) indemnification, and (5) contribution. (Docket # 499.)

WHEREAS, on March 31, 2014, the Baja Parties and the Midwest Parties filed a stipulation wherein JT Wholesale, Inc. and Trimexico, Inc. (who were represented by the same

counsel as the Midwest Parties) dismissed without prejudice all claims against the Baja Parties. In the same stipulation, Justin Shayota dismissed without prejudice his fraud claims against the Baja Parties. (Docket # 712.) On March 31, 2014, the Court entered the stipulation.

Whereas, currently, the Midwest Parties are asserting the following cross-claims against the Baja Parties:

- Counts One and Two: Fraudulent Misrepresentation and Innocent Misrepresentation asserted by cross-claimants Midwest Wholesale Distributors, Inc. (“Midwest”) and Wally Jamil against and Tradeway International, Inc. dba Baja Exporting (“Baja Exporting”) and Joe Shayota.
- Count Three: Silent Fraud asserted by cross-claimants Midwest and Jamil against Joe Shayota, Adriana Shayota and Baja Exporting.
- Counts Four and Five: Indemnification and Contribution asserted by all of the Midwest Parties against all of the Baja Parties.

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IT IS HEREBY stipulated and agreed that the Midwest Parties shall dismiss *with prejudice* as to the Baja Parties the following cross-claims: count one for fraudulent misrepresentation, count two for innocent misrepresentation, and count three for silent fraud. In addition, it is hereby stipulated and agreed that the Midwest Parties shall dismiss *without prejudice* as to the Baja Parties count four for indemnity and count five for contribution. The Midwest Parties' dismissals shall be without costs to any party.

Dated: April 29, 2014

Paesano Akkashian, P.C.

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s/ Richard Apkarian  
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*Attorneys for Tradeway International, Inc. d/b/a Baja Exporting, Joseph Shayota, and Adriana Shayota*

SO ORDERED:

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UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on April 29, 2014, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon all counsel of record via the Court's Electronic Case Filing System.

Dated: April 29, 2014

/s/ David M. Greeley

Gregory A. Vega

David M. Greeley

David H. Lichtenstein

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Exporting